

# **EXHIBIT 1**

7/17/2019 9:15 AM  
Marilyn Burgess - District Clerk Harris County  
Envelope No. 35186839  
By: Nancy Torres  
Filed: 7/16/2019 4:59 PM

2019-48291 / Court: 234

NO. \_\_\_\_\_

ERIC FINISTER, AS NEXT FRIEND  
OF A.E.  
Plaintiff,  
  
V.  
  
BURGER KING CORPORATION,  
BRANDON DUKES, HOUSTON FLY,  
LLC AND HOUSTON FOODS, INC.  
Defendants.

§ IN THE DISTRICT COURT  
§  
§  
§  
§ JUDICIAL DISTRICT  
§  
§  
§  
§ OF HARRIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Erica Finister, as Next Friend of [REDACTED] hereinafter called Plaintiff, complaining of and about Burger King Corporation, Brandon Dukes, Houston Fly, LLC and Houston Foods, Inc., hereinafter called Defendants, and for cause of action shows unto the Court the following:

**DISCOVERY CONTROL PLAN LEVEL**

Plaintiff intends that discovery be conducted under Discovery Level 2.

**PARTIES AND SERVICE**

Plaintiff, Erica Finister, as next friend of [REDACTED] an Individual who resides in Harris County, Texas. brings this action as Next Friend of [REDACTED] an Individual. The last three numbers of Erica Finister's driver's license number are 185.

Defendant Burger King Corporation, a Nonresident Corporation, may be served pursuant to sections 5.201 and 5.255 of the Texas Business Organizations Code by serving the registered agent of the corporation, CT Corporation System, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201, its registered office. Service of said Defendant as described above can be effected by personal delivery.

Defendant Brandon Dukes, an individual who is a resident of Texas, may be served with process at his home at the following address: 16805 Northern Flicker Trail, Conroe, Texas 77385, or wherever he may be found. Service of said Defendant as described above can be effected by personal delivery.

Defendant Houston Fly, LLC, a Limited Liability Company based in Texas, may be served with process by serving the registered agent of said company, Shoukat Dhanani, at 4415 Highway 6, Sugar Land, Texas 77478, its registered office. Service of said Defendant as described above can be effected by personal delivery.

Defendant Houston Foods, Inc., a Corporation based in Texas, is organized under the laws of the State of Texas, and service of process on the Defendant may be effected pursuant to sections 5.201 and 5.255 of the Texas Business Organizations Code, by serving the registered agent of the corporation, Shoukat Dhanani, at 4415 Highway 6, Sugar Land, Texas 77478, its registered office. Service of said Defendant as described above can be effected by personal delivery.

#### **JURISDICTION AND VENUE**

The subject matter in controversy is within the jurisdictional limits of this court. Plaintiff seeks monetary relief over \$1,000,000. This court has jurisdiction over Defendant Burger King Corporation, because said Defendant purposefully availed itself of the privilege of conducting activities in the state of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendant, and the assumption of jurisdiction over Burger King Corporation will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process. Plaintiff would show that Defendant Burger King Corporation had continuous and systematic contacts with the state of Texas sufficient to establish

general jurisdiction over said Defendant. Plaintiff would also show that the cause of action arose from or relates to the contacts of Defendant Burger King Corporation to the state of Texas, thereby conferring specific jurisdiction with respect to said Defendant.

Venue in Harris County is proper in this cause under Section 15.002(a)(3) of the Texas Civil Practice and Remedies Code because this county is the county of the principal office of Houston Foods, Inc., Defendant herein. Furthermore, because venue is proper with respect to Defendant Houston Foods, Inc., venue for this action with respect to all Defendants is proper under 15.005 of the Texas Civil Practice and Remedies Code.

#### FACTS

At all times relevant herein, [REDACTED] was employed at Burger King, owned and operated by Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. On or about February 2, 2018, [REDACTED] was in the employee break room when Defendant Brandon Dukes approached [REDACTED] and sexually assaulted her. Two other co-workers were present, one of whom recorded the incident and posted it on Snapchat, the other co-worker being a relative of the store manager. After immediately reporting the incident to the manager on duty, she was told it "was not his business" and to go back to work. [REDACTED] reported the incident to police, and as of the filing of this petition charges are still pending.

[REDACTED] made a formal complaint to her employer. After the complaint was made, Defendants Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. significantly reduced [REDACTED] hours to only one day per week. Subsequently, another co-worker, apparently upset over the fact that [REDACTED] reported the incident, threatened to shoot [REDACTED] while both were working for Defendants Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. The police were called due to this incident as well.

Defendants Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. did nothing to protect [REDACTED] from further assaults while under their employ, but rather retaliated against her for reporting the incidents by significantly reducing her work hours. Further, Defendants Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. failed to correct the intimidating, hostile and offensive working environment [REDACTED] was forced to endure. Defendants Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. discriminated against [REDACTED] due to her gender and race, and retaliated against her for reporting each instance of assault, harassment and intimidation by fellow employees. As a result, [REDACTED] was constructively discharged from her position.

#### [REDACTED] CLAIM FOR DISCRIMINATION AND RETALIATION

Each and every allegation contained in the foregoing paragraphs is re-alleged as if fully written herein. This claim is an action for gender discrimination pursuant to 42 U.S.C. § 2000e et seq. (Title VII of the Civil Rights Act of 1964) as amended by the Civil Rights Act of 1991, Texas Labor Code § 21.051 and Retaliation under Texas Labor Code § 21.055. Defendant Houston Foods, Inc. is an “employer” engaged in an industry affected commerce as defined by 42 U.S.C. § 2000e (b). [REDACTED] instituted a complaint with the Equal Employment Opportunity Commission, which has issued her a Right to Sue letter.

[REDACTED] an African American female, has been the subject of a disparate and hostile work environment on the basis of her race and sex, and then retaliated against by her employer when she made a complaint. Defendants engaged in intentional racial and gender discrimination, resulting in [REDACTED] constructive discharge. Defendants’ discriminatory conduct has caused Plaintiff damages. Defendants’ actions have caused Plaintiff to suffer mental and emotional distress, entitling her to compensatory damages pursuant to 42 U.S.C. § 1981a.

Defendants have engaged in discriminatory practices with malice and reckless indifference to Plaintiff's federally protected rights, thereby entitling them to punitive damages pursuant to 42 U.S.C. § 1981a.

**██████████ CLAIM FOR ASSAULT**

Each and every allegation contained in the foregoing paragraphs is re-alleged as if fully written herein. Defendant Dukes, acted intentionally, knowingly or recklessly when he assaulted Plaintiff. Defendants and their employees directed and allowed Plaintiff to be physically assaulted by another employee. Defendants, and/or their employees, made actual, physical contact with Plaintiff, without her consent, which caused damages to Plaintiff.

**██████████ CLAIM FOR NEGLIGENCE**

Each and every allegation contained in the foregoing paragraphs is re-alleged as if fully written herein. Defendants Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. owed a legal duty to Plaintiff to provide adequate security and a safe working environment. Defendants Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. had actual knowledge of the potential danger Plaintiff could be subjected to at any given time.

Defendants Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. breached their legal duty to Plaintiff by failing to provide her adequate security, failing to provide a safe working environment and failing to remedy harmful and dangerous situations of which they were aware. Defendants' Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. breach proximately caused Plaintiff injury, including physical harm, and mental anguish.

**[REDACTED] CLAIM FOR NEGLIGENT HIRING AND NEGLIGENT SUPERVISION**

Each and every allegation contained in the foregoing paragraphs is re-alleged as if fully written herein. Defendants Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. owed Plaintiffs a legal duty to hire, supervise, train and retain competent employees. Defendants Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. breached these duties to Plaintiff when it hired Dukes and other employees, failed to train those employees, and failed to properly supervise those employees. Defendants' Burger King Corporation, Houston Fly, LLC and Houston Foods, Inc. breach of their duties proximately caused Plaintiffs to suffer injuries.

**DAMAGES FOR INJURED PARTY ANIYA EARLY**

As a direct and proximate result of the occurrence made the basis of this lawsuit, the subject of this lawsuit, [REDACTED], was caused to suffer severe injuries, and to incur compensatory and actual damages including, but not limited to reasonable and necessary medical expenses and mental anguish. Plaintiff also seeks exemplary damages.

**REQUESTS FOR DISCLOSURE**

Pursuant to Texas Rule of Civil Procedure 194, Plaintiff request that Defendants disclose the information or material described in Rule 194.2.

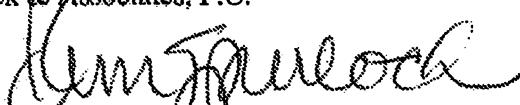
**PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff, Erica Finister, as Next Friend of [REDACTED] respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants, jointly and severally, for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be

entitled at law or in equity.

Respectfully submitted,

Spurlock & Associates, P.C.

By: 

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Attorney for Plaintiff  
Erica Finister, as Next Friend of Aniya Early

**PLAINTIFF HEREBY DEMANDS TRIAL BY JURY**



234th District Court of HARRIS County, Texas

201 CAROLINE, 13TH FL HOUSTON TX 77002

CASE #: 201948291

ERICA FINISTER, AS NEXT FRIEND OF A.E

Plaintiff

vs

BURGER KING CORPORATION, BRANDON DUKES, HOUSTON FLY, LLC AND HOUSTON FOODS, INC.

Defendant

**AFFIDAVIT OF SERVICE**

I, SHERI RHODES-JOHNSON, make statement to the fact; That I am a competent person more than 18 years of age or older and not a party to this action, nor interested in outcome of the suit. That I received the documents stated below on 07/29/19 9:55 am, instructing for same to be delivered upon BURGER KING CORPORATION By Delivering To Its Registered Agent CT Corporation System.

That I delivered to : BURGER KING CORPORATION By Delivering To Its Registered Agent CT Corporation System. By Delivering to ANTOINETTE WILLIAMS, INTAKE SPECIALIST

the following : CITATION; PLAINTIFF'S ORIGINAL PETITION

at this address : 1999 Bryan St. Suite 900  
Dallas, Dallas County, TX 75201

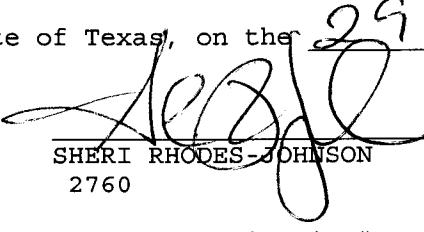
Manner of Delivery : By PERSONALLY delivering the document(s) to the person above.

Delivered on : Monday July 29, 2019 12:04 pm

My name is SHERI RHODES-JOHNSON, my date of birth is August 14th, 1977, and my address is Professional Civil Process Dallas, Inc., 2300 Valley View Ln, Ste 612, Irving TX 75062, and U.S.A. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Tarrant County, State of Texas, on the 29 day of

July, 2019.

  
SHERI RHODES-JOHNSON  
2760

Declarant

Texas Certification#: PSC-10551 Exp. 09/30/2019

PCP Inv#: A19704292  
RO Inv#: D19700264



+ Service Fee: 75.00  
Witness Fee: .00  
Mileage Fee: .00

braddock  
eaffidavits@pcpusa.net

Spurlock, Kimberly

E-FILE RETURN